

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ARRIVA PHARMACEUTICALS, INC. fka
ALPHAONE PHARMACEUTICALS, INC., a
California corporation,

Plaintiff,

v.

SONORAN DESERT CHEMICALS, LLC, etc.,
et al.,

Defendants.

No. C 99-02169 SI

**ORDER TO BANKRUPTCY TRUSTEE
FOR DARREN AND JARETT LEZDEY
TO MAKE SHOWING RE:
PROSECUTION OF COUNTERCLAIMS**

AND RELATED COUNTERCLAIMS.

Counsel for the Chapter 7 Trustee of the estates of Darren and Jarett Lezdey, Andrew W. Lennox, has requested an additional 60 days to “make a final determination as to [the] value *vis a vis* prosecution or dismissal” of the counterclaims by Darren and Jarett Lezdey still pending in this action.

These counterclaims were filed in 1999 and are currently the only remaining claims in this action. Bankruptcy proceedings for Darren and Jarett Lezdey were initiated in April, 2005 and were converted to Chapter 7 in October, 2005. Unaccountably, the Trustee waited until July, 2006 to file a Suggestion of Bankruptcy in this action and did not, until ordered to do so by this Court in September, 2006, provide any indication whether the Trustee would prosecute these claims.

Because the delays in this matter have been substantial already, and have not been explained at all by the Trustee’s September 18, 2006 Statement, the Court is reluctant to approve still further delays in the case. However, in an effort to provide all parties the opportunity to resolve these matters in a fair and efficient manner, the Trustee’s request for an additional 60 day delay is GRANTED.

1 The Trustee shall file, **on or before Wednesday, November 15, 2006**, a statement indicating
2 whether he intends to file an appearance in this action and actively prosecute the counterclaims against
3 Arriva, or whether the counterclaims have been sold, assigned and/or dismissed by stipulation or
4 otherwise. If the Trustee indicates that he will appear in and prosecute these actions he shall also file,
5 with his November 15, 2006 statement, a plan for the balance of the litigation, and all remaining parties
6 shall appear, through counsel or in person, at a **Case Management Conference on Friday, November**
7 **17, 2006 at 2:00 p.m.**.

8 If a satisfactory statement is not received by the Court by November 15, 2006 and/or if no
9 appearance is made on November 17, 2006 as ordered, then these counterclaims will be dismissed for
10 failure to prosecute.

11 This order will be served on Darren and Jarett Lezdey at the addresses they provided to the
12 Court, and at the additional addresses provided to the Court at the last Case Management Conference,
13 including counsel for the Bankruptcy Trustee.

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15 **IT IS SO ORDERED.**

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17 Dated: September 19, 2006

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19 SUSAN ILLSTON
20 United States District Judge
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